

§ 122C-283. (Effective until October 1, 2019) Duties of law-enforcement officer; first examination by physician or eligible psychologist.

(a) Without unnecessary delay after assuming custody, the law-enforcement officer or the individual designated by the clerk or magistrate under G.S. 122C-251(g) to provide transportation shall take the respondent to an area facility for examination by a physician or eligible psychologist; if a physician or eligible psychologist is not available in the area facility, he shall take the respondent to any physician or eligible psychologist locally available. If a physician or eligible psychologist is not immediately available, the respondent may be temporarily detained in an area facility if one is available; if an area facility is not available, he may be detained under appropriate supervision, in his home, in a private hospital or a clinic, or in a general hospital, but not in a jail or other penal facility.

(b) The examination set forth in subsection (a) of this section is not required if:

- (1) The affiant who obtained the custody order is a physician or eligible psychologist; or
- (2) The respondent is in custody under the special emergency procedure described in G.S. 122C-282.

In these cases when it is recommended that the respondent be detained in a 24-hour facility, the law-enforcement officer shall take the respondent directly to a 24-hour facility described in G.S. 122C-252.

(c) The physician or eligible psychologist described in subsection (a) of this section shall examine the respondent as soon as possible, and in any event within 24 hours, after the respondent is presented for examination. The examination shall include but is not limited to an assessment of the respondent's:

- (1) Current and previous substance abuse including, if available, previous treatment history; and
- (2) Dangerousness to himself or others as defined in G.S. 122C-3(11).

(d) After the conclusion of the examination the physician or eligible psychologist shall make the following determinations:

- (1) If the physician or eligible psychologist finds that the respondent is a substance abuser and is dangerous to himself or others, he shall recommend commitment and whether the respondent should be released or be held at a 24-hour facility pending hearing and shall so show on [the] his examination report. Based on the physician's or eligible psychologist's recommendation the law-enforcement officer or other designated individual shall take the respondent to a 24-hour facility described in G.S. 122C-252 or release the respondent.
- (2) If the physician or eligible psychologist finds that the condition described in subdivision (1) of this subsection does not exist, the respondent shall be released and the proceedings terminated.

(e) The findings of the physician or eligible psychologist and the facts on which they are based shall be in writing in all cases. A copy of the findings shall be sent to the clerk of superior court by the most reliable and expeditious means. If it cannot be reasonably anticipated that the clerk will receive the copy within 48 hours of the time that it was signed, the physician or eligible psychologist shall also communicate his findings to the clerk by telephone. (1973, c. 726, s. 1; c. 1408, s. 1; 1977, c. 400, s. 4; c. 679, s. 8; c. 739, s. 1; 1979, c. 358, s. 27; c. 915, s. 4; 1983, c. 380, ss. 4, 10; c. 638, ss. 6, 7, 25.1; c. 864, s. 4; 1985, c. 589, s. 2; c. 695, ss. 2, 9.)

§ 122C-283. (Effective October 1, 2019) Duties of law enforcement officer; first examination by commitment examiner.

(a) Without unnecessary delay after assuming custody, the law enforcement officer or the individual designated or required to provide transportation under G.S. 122C-251(g) shall take the respondent to a facility or other location identified by the LME/MCO in the community crisis services plan adopted pursuant to G.S. 122C-202.2 that has an available commitment examiner and is capable of performing a first examination in conjunction with a health screening in the same location, unless exigent circumstances require the respondent be transported to an emergency department indicate appears to be suffering a medical emergency in which case the law enforcement officer will seek immediate medical assistance for the respondent. If a commitment examiner is not available, whether on-site, on-call, or via telemedicine, at any facility or location, or if a plan has not been adopted, the person designated to provide transportation shall take the respondent to an alternative non-hospital provider or facility-based crisis center for a first examination in conjunction with a health screening at the same location. If no non-hospital provider or facility-based crisis center for a first examination in conjunction with a health screening at the same location, the person designated to provide transportations shall take the respondent to a private hospital or clinic, a general hospital, an acute care hospital, or a State facility for the mentally ill. If a commitment examiner is not immediately available, the respondent may be temporarily detained in an area facility if one is available; if an area facility is not available, he may be detained under appropriate supervision, in his home, in a private hospital or a clinic, or in a general hospital, but not in a jail or other penal facility. For the purposes of this section, "non-hospital provider" means an outpatient provider that provides either behavioral health or medical services.

(a1) A facility, or other location to which a respondent is transported under subsection (a) of this section, shall provide a health screening of the respondent. The health screening shall be conducted by a physician or other individual who is determined by the area facility, contracted facility, or other location to be qualified to perform the health screening. The respondent may either be in the physical face-to-face presence of the health screening examiner or may be examined utilizing telemedicine equipment and procedures. Documentation of the health screening required under this subsection that is completed prior to transporting the patient to any general or acute care hospital shall accompany the patient or otherwise be made available at the time of transportation to the receiving facility.

(b) The examination set forth in subsection (a) of this section is not required under either of the following circumstances:

- (1) The affiant who obtained the custody order is a commitment examiner.
- (2) The respondent is in custody under the special emergency procedure described in G.S. 122C-282.

In these cases when it is recommended that the respondent be detained in a 24-hour facility, the law enforcement officer shall take the respondent directly to a 24-hour facility described in G.S. 122C-252.

(c) The commitment examiner described in subsection (a) of this section shall examine the respondent as soon as possible, and in any event within 24 hours, after the respondent is presented for examination. The examination shall include but is not limited to an assessment of the respondent's:

- (1) Current and previous substance abuse including, if available, previous treatment history; and
- (2) Dangerousness to himself or others as defined in G.S. 122C-3(11).

(d) After the conclusion of the examination, the commitment examiner shall make the following determinations:

- (1) If the commitment examiner finds that the respondent is a substance abuser and is dangerous to self or others, the commitment examiner shall recommend commitment and whether the respondent should be released or be held at a

24-hour facility pending hearing and shall so show on the examination report. Based on the commitment examiner's recommendation, the law enforcement officer or other designated individual shall take the respondent to a 24-hour facility described in G.S. 122C-252 or release the respondent. If a 24-hour facility is not immediately available or medically appropriate, the respondent may be temporarily detained under appropriate supervision and the procedures described in G.S. 122C-263(d)(2) shall apply.

- (2) If the commitment examiner finds that the condition described in subdivision (1) of this subsection does not exist, the respondent shall be released and the proceedings terminated.

(e) The findings of the commitment examiner and the facts on which they are based shall be in writing in all cases. A copy of the findings shall be sent to the clerk of superior court by the most reliable and expeditious means. If it cannot be reasonably anticipated that the clerk will receive the copy within 48 hours after the time it was signed, the commitment examiner shall also communicate the findings to the clerk by telephone. (1973, c. 726, s. 1; c. 1408, s. 1; 1977, c. 400, s. 4; c. 679, s. 8; c. 739, s. 1; 1979, c. 358, s. 27; c. 915, s. 4; 1983, c. 380, ss. 4, 10; c. 638, ss. 6, 7, 25.1; c. 864, s. 4; 1985, c. 589, s. 2; c. 695, ss. 2, 9; 2018-33, s. 34; 2018-76, s. 3.2(b).)